

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

EUGENE SPIVEY,)	
)	
Petitioner,)	
)	
v.)	Case Nos. 1:14-cv-01062-JDB-egb
)	1:15-cv-01228-JDB-egb
MIKE PARRIS,)	
)	
Respondent.)	
)	

**ORDER DIRECTING THE CLERK TO FILE THE PETITION
FROM CASE NUMBER 15-1228
AS AN AMENDED PETITION IN CASE NUMBER 14-1062,
CLOSING CASE NUMBER 15-1228 AND
DIRECTING THE CLERK TO REFUND THE FILING FEE**

On September 10, 2015, Petitioner, Eugene Spivey, Tennessee Department of Correction prisoner number 338054, an inmate at the Northwest Correctional Complex in Tiptonville, Tennessee, filed a *pro se* document, titled “Motion to Correct an Illegal Sentence,” which the Clerk docketed as a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Mot. to Correct Sentence, *Spivey v. State v. Tenn.*, No. 1:15-cv-01228-JDB-egb (W.D. Tenn.), ECF No. 1.) Spivey’s motion challenges the sentence imposed in a criminal case from Crockett County, Tennessee, docket number 3706C, in which he was convicted of second degree murder. The Court issued an order on September 17, 2015, directing Petitioner to submit an *in forma pauperis* affidavit and trust fund account statement or pay the habeas filing fee. (Order, *id.*, ECF No. 2.) On October 8, 2015, the Clerk docketed the habeas filing fee. (Case initiation fee, *id.*, ECF No. 4.)

State prisoners may file only one § 2254 petition challenging a state-court judgment. Spivey has a pending § 2254 action challenging the Crockett County judgment, namely, *Spivey v. Parris*, No. 1:14-cv-01062-JDB-egb (W.D. Tenn.). Therefore, the Clerk is DIRECTED to file the motion in Case Number 15-1228 as an amended § 2254 petition in Case Number 14-1062. The filing date of the amended § 2254 petition shall be September 10, 2015, the date on which the amended § 2254 petition was received by the Clerk.

The Clerk is directed to close Case Number 15-1228 without entry of a judgment. The Clerk is further directed to refund the filing fee paid in Case Number 15-1228. Spivey is CAUTIONED that any further filings addressing his Crockett County conviction for second degree murder should be made only in Case Number 14-1062.

The Court will address the substance of Petitioner's most recent amendment in a separate order.

IT IS SO ORDERED this 23rd day of March, 2016.

s/ J. DANIEL BREEN
CHIEF UNITED STATES DISTRICT JUDGE